IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12172 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVISIONAL CONTROLLER - Petitioner(s)

Versus

CHANDRASINH NARSINH RAJPUT CONDUCTOR NO.6647- THR'- - Respondent(s)

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Appearance :

MRS VASAVDATTA BHATT for Petitioner(s) : 1,
MR JS BRAHMBHATT for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 28/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner S.T.Corporation has challenged the legality of an award dated 21st April, 2003 passed by Industrial Tribunal,

Vadodara. By the impugned award Industrial Tribunal was pleased to partially allow the reference of the respondent workman.

2. Respondent was engaged as a conductor by the petitioner corporation. On 29th October, 1996 when the respondent was discharging his duties as a conductor his bus was checked and it was found that though fare was collected from one passenger ticket was not issued to him. For the misconduct a departmental inquiry was conducted, employer imposed a punishment of withholding of three increments with future effect. Said order was passed on 30th June, 1997. The respondent challenge the penalty before the Industrial Tribunal. Industrial Tribunal observed that the workman does not challenged the legality of the departmental inquiry. However, Industrial Tribunal observed that there was no intention of mis-appropriating the fare on the part of the workman. The Industrial Tribunal was, therefore, pleased to conclude that there was negligence on the part of the workman. Industrial Tribunal, therefore, reduced the penalty from withholding of increments for a period of three years to that of withholding of increments for the period of 18 months with permanent effect.

2.1 The Industrial Tribunal erred in interfering that the penalty imposed by the employer. Even if it is presumed that there was no dishonest intention on the part of the respondent in issuing 10 tickets from different blocks and the same was only a mistake, there was no explanation coming forth for having collected fare from one passenger and not having issued ticket to him. Industrial Tribunal's award has not dealt with the aspect of this matter at all. Therefore, when the employer upon conclusion of departmental inquiry found it appropriate to impose punishment of withholding of three increments with future effect. It was not open for the Industrial Tribunal to interfere with quantum of punishment unless a strong reasons were available on record. In the result, award of the Industrial Tribunal is required and is hereby set aside. Petition is allowed. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

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